IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 4302 OF 2006

Rajaram Khandu Jabade & ors.... Petitioner

versus

Ramu Dudyappa Vadar
since deceased by his L.R..... Respondent.

Shri S.G.Deshmukh for the petiitoner
Shri Kiran Shirjappe for the respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 13TH AUGUST, 2007

P.C.;

1. The present petitioners moved an application for mutation of their names in the revenue records in relation to the subject land. The application was allowed by Tahasildar and an appeal preferred by the present respondent was dismissed by SDO. Aggreived thereby, a second appeal was carried before the Addl.Collector and the Addl.Collector allowing the appeal, has set aside the order passed by Tahasildar meaning thereby rejecting the application moved by the petitioner for mutation of their name in the revenue records. The petitioner carried a revision before the Commissioner against the order passed by the Addl.Collector dated 19-4-1994 , which revision came to be dismissed by the impugned order dated 12-12-2004. The Commissioner has observed in his

order that for almost 10 years after obtaining the statusquo order, the petitioner has not bothered to pursue the revision. It is then observed that though respondent no.1 and his son expired, the L.Rs. are not brought on record. Neither the revisional applicant nor his counsel was present when the matter was called out. In this factual background the Commissioner has dismissed the revision.

2. The learned counsel for the respondent has placed on record copy of the registered agreement dated 25-6-1984 wherein a categorical mention is made that the possession of the land shall be handed over at the time of execution of the sale deed, after obtaining prior permission of the Collector. Per contra the learned counsel for the petitioner has submitted that besides the said agreement of 1984 there was yet another agreement executed prior in point of time i.e. in 1981 whereunder the possession of the suit property was handed over to the respondent by the petitioners. The order passed by the Addl.Collector observes that had the possession been delivered at the time of executing the agreement in the year 1981, which is an unregistered document, what was the need for the petitioner to be bound by the terms contained in 1984 agreement. Vaxed questions are involved, which cannot be gone into and adjudicated by the revenue authority.

Hence no interference with the order passed by the Commissioner is called for. It is also brought to my notice that the present respondent had filed a suit for injunction and an application for temporary injunction filed therein came to be rejected. Thereafter the suit is dismissed for want of prosecution. Be it as it may the question involved in this petition, not being capable of adjudication by revenue authorities, it is left open for the parties to seek recourse to the proceedings before the appropriate forum. Hence writ petition is summarily dismissed.

....